IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. ARBITRATION APPLICATION NO.30/06

M/s. Om Prakash Goyal & Company

Versus

Union of India & Ors.

DATE OF ORDER :: 26/10/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. D.D. Sharma, for applicant
Mr. Shailesh Prakash Sharma, for respondents

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An agreement was executed between the parties for performance of work contract and there was a condition of contract which was undisputedly executed between the parties and as per Clause 64 of the agreement if there is any dispute or difference between the parties hereto, the matter will be referred for arbitration and it will be either General Manager or any person appointed by him. In addition to it, there are special conditions which too have been executed with regard to settlement of disputes under Clause 28.2. It was further agreed that provisions of Clauses 63 & 64 will be applicable only for settlement of claims or disputes itself between the parties for value less than or equal thereto **20% of the value of contract.**

That the contract has been valued for a sum of Rs.32,97,289.97 and disputed claim which applicant has raised including interest is Rs.5 lacs which is less than 20% of the value of work contract.

The objection was raised by counsel for respondents is that value of the contract might have been Rs.32,97,289.97, but the actual work of which was executed by applicant was Rs.19,66,553.17 and what has been disputed by him was more than 20%. As such, clause of arbitration will not apply. So far as conditions of contract, particularly, dispute with regard to settlement of dispute is concerned, Clause 64 of general condition and 28.2 of special conditions is not in dispute between the parties and Condition No.28.2 specifically take note of 20% of the value of the contract which is in no manner related to work which has been asked to be undertaken by the Contractor under the agreement executed.

Looking to value of contract agreed between the parties in terms of contract what has been disputed by applicant is less than 20% and in opinion of this court, Clause 28.2 applies and since there is dispute between the parties, it is certainly required to be arbitrated by Arbitrator under Clause 63 of agreement.

This Court, therefore, directs that the General Manager, West Central Railway, Jabalpur or Gazetted Railway Officer nominated by him not below the rank of JA Grade, be appointed as Arbitrator within 30 days on furnishing copy of this order, who is expected to decide the dispute expeditiously.

With the above observations, the application stands disposed of.

[AJAY RASTOGI],J.